Supreme Court, U.S.
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No. 06-94

In The
Supreme Court of the United States

FULLER-AUSTIN INSULATION COMPANY, f/b/o FULLER-AUSTIN ASBESTOS SETTLEMENT TRUST,

Petitioner,

v.

HIGHLANDS INSURANCE COMPANY, *et al.*,

Respondents.

On Petition For A Writ of Certiorari To The California Court Of Appeal, Second Appellate District, Division Two

MOTION FOR LEAVE TO FILE BRIEF OF *AMICI CURIAE* AND BRIEF OF *AMICI CURIAE* CONSUMER FEDERATION OF AMERICA AND UNITED POLICYHOLDERS IN SUPPORT OF PETITIONER

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MOTION FOR LEAVE TO FILE A BRIEF OF *AMICI CURIAE* IN SUPPORT OF PETITIONERS AND STATEMENT OF INTEREST

Pursuant to Rule 37.2(b), the Consumer Federation of America and United Policyholders (collectively, "*Amici*") respectfully move for leave to file this Brief *Amici Curiae* in support of Petitioners. Not all respondents have not consented to the filing of this Brief. In support of this motion, *Amici* state as follows:

The Consumer Federation of America ("CFA") is a coalition of over 300 national, state, and local consumer, senior citizen, labor, farm, cooperative, and rural organizations representing more than 50 million people in matters pertaining to the well-being of the American consumer. CFA has a three-fold mission: to assist state and local organizations, to provide information to the public regarding consumer issues, and to conduct research projects. CFA is deeply concerned about the regulation of the insurance industry and about the appropriate and prompt payment of insurance claims.

CFA also researches consumer issues, behavior, and attitudes through surveys, polling, focus groups, and literature reviews. The findings of such projects are published in reports that assist consumer advocates and policy makers as well as individual consumers. Research supported by the CFA also provides the basis for new consumer initiatives, public service advertising, and consumer information and education efforts.

CFA believes that liability insurance coverage is vital to protect both the policyholder companies and the injured claimants. It is critical that liability insurance be made

available for the benefit of both companies and injured claimants.

United Policyholders ("UP") was founded in 1991 as a non-profit, 501(c)(3) organization dedicated to educating the public on insurance issues and consumer rights. UP is funded by donations and grants from individuals, businesses, and foundations. The organization monitors legal and marketplace developments that impact policyholders and participates in the formation of public policy on insurance transactions. UP offers practical guidance on coverage and claims issues to property and business owners and advocates, including disaster relief personnel, attorneys, and adjusters.

UP previously has appeared as *amicus curiae ("Amici")* in over 130 cases throughout the United States, including numerous cases in this Court. *See Aetna Health Inc. v. Davila*, 542 U.S. 200 (2004); *Rush Prudential HMO, Inc. v. Moran*, 536 U.S. 355 (2002), *overruled in part by Ky. Ass'n of Health Plans, Inc. v. Miller*, 538 U.S. 329 (2003); *Humana Inc. v. Forsyth*, 525 U.S. 299 (1999); *F L Aerospace Corp. v. Aetna Cas. & Sur. Co.*, 498 U.S. 911 (1990) (denying cert.). UP was the only national consumer organization to submit an *amicus* brief in the landmark case of *State Farm Mutual Automobile Insurance Co. v. Campbell*, 538 U.S. 408 (2003).

Both CFA and UP are concerned about the adverse impact the Court of Appeal's decision in this case will have on their constituencies. They believe that the issues presented in this case are central to assuring that insurance assets are available to protect policyholders and injured claimants alike with regard to the overwhelming liabilities in the national asbestos crisis.

Thus, *Amici* have a strong interest in the outcome of the petition for certiorari filed by Petitioner Fuller-Austin Insulation Company ("Fuller-Austin").

TABLE OF CONTENTS

Page

ARGUMENT 1

CONCLUSION..... 2

ARGUMENT[1]

Amici adopt the arguments set forth in the Brief of *Amici Curiae* The Babcock & Wilcox Company Asbestos PI Trust, The Celotex Asbestos Settlement, Trust, the Plibrico 524(g) Asbestos Trust, the Western Asbestos Settlement Trust, and the Combustion Engineering 524(g) Asbestos PI Trust, submitted to the Court on August 21, 2005.

[1] As required by Rule 37.6, counsel for *Amici* state that they authored this brief in its entirety and that no party or parties other than *Amici* made any monetary contribution to the preparation or submission of this brief.

CONCLUSION

For the reasons stated above, as well as those set forth in the Petition, certiorari should be granted.

DATED: August 21, 2006

Respectfully submitted,

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